

## PLANNING COMMISSION MINUTES

Gardner, Kansas  
Monday, April 10, 2006

The Planning Commission met in regular session on the above date at the Gardner City Hall, 120 E. Main Street, Gardner, Kansas.

### I. Call to Order

Chairman Koranda called the meeting to order at 7:02 p.m. Commissioners present: Paul Kilgore, Greg Godwin, Eileen Mertz (7:08 p.m.), Jason Burnett, and Dan Popp. Commissioners absent: Eric Schultz. Also present: Community Development Director Fred Sherman; Planner Erik Pollom; applicant Matt Mabe of Jabez Investments, L.L.C.; engineer for the applicant Joel Riggs of Peridian Group, Inc.; and five interested citizens.

### II. Approval of Minutes

The minutes of the March 27, 2006, meeting, were approved by unanimous consent.

### III. Consent Agenda

#### 1. FP-06-04

**Consider a Final Plat for Quail Meadows, a 21 acre single family residential development located on the south side of 167<sup>th</sup> Street, ¼ mile west of Waverly Road. The application is filed by Quail Meadows, L.L.C.; with engineering services provided by Allenbrand-Drews & Associates, Inc.**

1. **APPLICANT:** The applicant is Quail Meadows, L.L.C.; with engineering services provided by Allenbrand-Drews & Associates, Inc.
2. **REQUESTED ACTION:** The applicant requests final plat approval for a 21 acre tract of land in a single family residential subdivision.
3. **LOCATION:** The property is located on the south side of 167<sup>th</sup> Street, approximately ¼ mile west of Waverly Road.
4. **EXISTING ZONING:** This property is currently zoned R-1, Single Family Residential District (Z-05-10).
5. **ANALYSIS:** The applicant requests approval for a final plat containing 52 lots for single family residential development. The layout of lots and streets conforms to the approved preliminary plat for Quail Meadows (PP-06-01). This final plat encompasses the northern half of the property outlined in the preliminary plat, and is the first of two phases of development.  
The plat identifies a tract of land (Tract A) that is entirely within the designated 100 year flood plain and will likely be utilized for future development of the Kill Creek Greenway pedestrian trail system. The applicant is working with City staff on a potential City purchase of additional park ground outside the designated regulatory floodplain area. If additional land is purchased by the City of Gardner for development of a neighborhood park, a revised final plat will be submitted for consideration.
6. **STAFF RECOMMENDATION:** Staff recommends that the Planning Commission forward the Final Plat for Quail Meadows (FP-06-04) to the City Council with a recommendation to accept the easements and rights-of-way, with the following stipulations:
  - a. Prior to recording of the final plat, storm water management data and proposed plans shall be submitted for any land elevation alterations or fill within the floodplain area as denoted in the Kill Creek Drainage Study.
  - b. Prior to recording of the final plat, the required excise tax shall be paid.

Consent Agenda Item No. 1, Final Plat for Quail Meadows (FP-06-04), was forwarded to the City Council with a recommendation for approval of the easements and rights-of-way, subject to staff recommendations, by unanimous consent.

### IV. Agenda Items

Chairman Koranda opened the public hearings for Agenda Item No. 1, Z-06-02 (PDP-06-01); Agenda Item No. 2, Z-06-03 (PDP-06-02); and Agenda Item No. 3, Z-06-04 (PDP-06-03) concurrently at 7:10 p.m.

Director Sherman presented the staff reports for Agenda Item No. 1, Z-06-02 (PDP-06-01); Agenda Item No. 2, Z-06-03 (PDP-06-02); and Agenda Item No. 3, Z-06-04 (PDP-06-03) concurrently.

## 1. Z-06-02

**Conduct a public hearing and consider rezoning property from A (Agricultural District) to RP-1 (Planned Single Family Residential District) and RP-3 (Planned Garden Apartment District) for a 16.25 acre property located on the east side of Waverly Road, approximately ¼ mile south of 167<sup>th</sup> Street. The application is filed by Jabez Investments, L.L.C.**

1. **APPLICANT:** Jabez Investments, L.L.C., is the applicant; with engineering services provided by Peridian Group, Inc.
2. **REQUESTED ACTION:** The applicant requests rezoning from A (Agricultural District) to RP-1 (Planned Single Family Residential District) and RP-3 (Planned Garden Apartment District).
3. **LOCATION:** The 16.25 acre property is located on the east side of Waverly Road, approximately ¼ mile south of 167<sup>th</sup> Street.
4. **EXISTING ZONING:** The property is currently zoned A (Agricultural District) upon annexation into the City of Gardner (Ord 2172).
5. **CHARACTER OF THE NEIGHBORHOOD:** The land immediately surrounding the subject property is characterized as the developing northwest fringe of the City of Gardner. Existing uses include Madison Elementary School and a developing single family subdivision to the immediate south; single family residential uses to the southwest; a church facility, agricultural and residential uses on the west side of Waverly Road to the immediate west; a developing single family subdivision (Megan Valley) to the northwest; agricultural and two existing residences to the north (proposed for a mixed use development Z-06-03 and Z-06-04); and two agricultural farms that are not incorporated into the City of Gardner to the immediate east (on the south side of 167<sup>th</sup> Street) and to the northeast (on the north side of 167<sup>th</sup> Street). The other significant character defining elements in this immediate area are the new overhead electrical power transmission lines running along the north side of 167<sup>th</sup> Street and the east side of Waverly Road, and the developing Gardner electrical substation site on the west side of Waverly Road, northwest of this subject property.
6. **LAND USE AND ZONING PATTERNS:** The surrounding properties are zoned R-1, Single Family Residential District, to the south, southwest, and northwest; A, Agricultural District, to the immediate west and north; and Johnson County RUR to the immediate east and far northeast.
7. **CONFORMANCE TO THE COMMUNITY DEVELOPMENT PLAN:** The Gardner Community Development Plan - 2003 denotes urban residential land uses and low-density residential development uses for this immediate area. The Community Development Plan attempts to expand housing opportunities by targeting various residential densities. Three residential land use categories are depicted on the Development Plan Map. The categories are distinguishable by the density of development allowed in each:

Low-Density:	Greater than 1 and less than or equal to 6 units per acre
Medium-Density:	Greater than 6 and less than or equal to 15 units per acre
High-Density:	Greater than 15 units per acre

Rezoning the property to RP-3, Planned Garden Apartment District, and RP-1, Planned Single-Family Residential District, could be complementary with the intent and policies of the plan.

The general goal of the plan for low-density residential land uses is to help form residential neighborhoods that are stable, safe and aesthetically pleasing. Specific policies for low-density land uses include:

**Policy 2.2: Reserve Suitable Sites**

Reserve suitable land areas of adequate size to accommodate a number of subdivisions in order to facilitate well-planned orderly development with better coordination of public services and facilities.

**Policy 2.3: Ensure Adequate Infrastructure Facilities**

Ensure that new housing development occurs in areas, which can be adequately and efficiently served by infrastructure facilities.

**Policy 2.4: Allow Small-Lot and Duplex Subdivisions**

Allow the use of small-lot and duplex subdivisions in low-density residential areas in the following circumstances upon a finding of compatibility with surrounding uses:

- a) As a land use transition between lower-density development and land uses of higher intensities.
- b) Adjacent to heavily traveled streets such as highways, or interstates, or adjacent to railroad corridors.
- c) Where flexibility in subdivision design is necessary to preserve natural features, provide for greenway linkages or avoid floodplains.

**Policy 3.2: Encourage Proper Lot Orientation**

Encourage subdivision design in which peripheral lots face inward toward the neighborhood of which they are a part, especially those lots which are adjacent to collectors or arterial thoroughfares. No home shall front on a designated arterial thoroughfare.

**Policy 3.3: Provide for Extra Buffering in Special Circumstances**

Encourage subdivision design which provides extra buffering between homes and adjacent freeways or thoroughfares. Extra buffering can be accomplished by using any of the following methods or a combination thereof:

- a) Berms

- b) Landscape screening
- c) Fences
- d) Extra lot depth

**Policy 4.1: Use Appropriate Transitional Methods**

Appropriate transitional methods should be considered at all locations where the development or expansions of nonresidential and medium- or high-density residential land uses abut low-density residential property (either built or zoned). In general, transitions between different types of intensities of land use should be made gradually, particularly where natural or man-made buffers are not available.

**Policy 4.2: Higher-Density Residential as Transitional Use**

Promote the use of higher density residential development and duplexes as a transitional land use between nonresidential developments and surrounding low-density residential neighborhoods.

8. **STAFF ANALYSIS OF THE APPLICATION:** A revised development plan, based on work session discussions the between the applicant's representative and the Planning Commission, has been submitted for consideration with this rezoning application since this request was first considered at the February 27, 2006, meeting. The revised plan proposes the development of single unit and two unit, duplex units, over the entire 16.2 acre land area. The plan denotes 30 duplex lots and 23 single family lots. The 83 total residential units would result in an overall density for this area of about 5.1 units per acre.

This request is to rezone the property to a planned zoning district, which provides for the review and scrutiny of a development plan showing lot layout and on-site improvements, as well as architectural plans and proposed building elevations, all to be tied to the overall zoning approval process. Only a sampling of one-sided building elevations were submitted with this rezoning request, and the two additional rezoning requests to the north (Z-06-03 and Z-06-04). Specific architectural plans for this revised rezoning request have not been determined nor submitted.

No information has been provided regarding the unique elements proposed for either the single family or duplex portions of this rezoning request that would require the property to be a planned zoning district. It is not indicated on the submitted development plan if the proposed lots conform to Gardner's traditional, or Euclidian, R-1 development standards (8,000 sq ft in size, 70' in width).

In staff's opinion, this land use concept is reflective of and based on the successful rezoning of the property north of the drainage way at the north end of this subject property (Z-06-03). As submitted, the applicant attempts to provide a transition of residential land uses to the proposed commercial uses at the northeast and southeast corners of the 167<sup>th</sup> Street and Waverly Road intersection. If the commercial land uses are not approved, staff questions the need for this design of residential uses at this location given the character of existing and approved development to the south, southwest, and east of this subject property, and given the Planning Commission's and the general public's reaction to the duplex rezoning request (Z-05-06) that was presented to the Planning Commission at the June 27, 2005, meeting. The 15 acres just to the south of this subject property was requested to be zoned to the R-2, Two Family Residential District. The request was withdrawn, and left as an R-1 Single Family Residential District, at the request of the applicant after strong objections raised by nearby residents and concerns expressed by Planning Commissioners.

While this particular rezoning request complies with the density standards of the adopted Community Development Plan, it is staff's opinion that the submitted revised plan is inadequate in addressing and complying with many of the other adopted policies for low-density land uses that would justify zoning this property to a higher density residential zoning district other than the traditional R-1 zoning district.

9. **STAFF RECOMMENDATION:** Staff does not support the requested RP-3 and RP-1 zoning districts based on the information and plans provided. Staff recommends that the Planning Commission forward the rezoning application for the McCann Property South from A, Agricultural District, to RP-3 and RP-1 District (Z-06-02), to the City Council with a recommendation for approval to the R-1, Single Family Residential District, for the entire 16.25 acres, based on provisions of Chapter 16-1517, Lesser Change Table, with no stipulations.

## 2. Z-06-03

**Conduct a public hearing and consider rezoning property from A (Agricultural District) to CP-2 (Planned General Business District) and RP-3 (Planned Garden Apartment District) for a 47.64 acre property located on the southeast and northeast corners of the Waverly Road and 167<sup>th</sup> Street intersection. The application is filed by Jabez Investments, L.L.C.**

1. **APPLICANT:** Jabez Investments, L.L.C., is the applicant; with engineering services provided by Peridian Group, Inc.
2. **REQUESTED ACTION:** The applicant requests rezoning 47.64 acres from A (Agricultural District) to CP-2 (Planned Single Family Residential District) and RP-3 (Planned Garden Apartment District).
3. **LOCATION:** The 47.64 acre property is located on the southeast and northeast corners of the Waverly Road and 167<sup>th</sup> Street intersection.
4. **EXISTING ZONING:** The property is currently zoned A (Agricultural District) upon annexation into the City of Gardner (Ord 2172).
5. **CHARACTER OF THE NEIGHBORHOOD:** The land immediately surrounding the subject property is characterized as the developing northwest fringe of the City of Gardner. Existing uses include Madison Elementary School and a developing single family subdivision to the far south; single family residential uses, a church facility, agricultural and residential uses on the west side of Waverly Road to the southwest ; a developing single family subdivision (Megan

Valley) to the immediate west; agricultural uses to the south and north (proposed for a mixed use development Z-06-03 and Z-06-04); and two agricultural farms that are not incorporated into the City of Gardner to the immediate southeast (on the south side of 167<sup>th</sup> Street) and to the east (on the north side of 167<sup>th</sup> Street).

The other significant character defining elements in this immediate area are the new overhead electrical power transmission lines running along the north side of 167<sup>th</sup> Street and the east side of Waverly Road, and the developing Gardner electrical substation site on the west side of Waverly Road, northwest of this subject property.

6. **LAND USE AND ZONING PATTERNS:** The surrounding properties are zoned R-1, Single Family Residential District, to the southwest and west; A, Agricultural District, to the immediate southwest and north; and Johnson County RUR to the immediate east and southeast.
7. **CONFORMANCE TO THE COMMUNITY DEVELOPMENT PLAN:** The Gardner Community Development Plan - 2003 denotes urban residential land uses and low-density residential development uses for this immediate area. Given the fact that the Development Plan Map shows the subject property as appropriate for low-density residential uses, the proposed CP-2, Planned General Business District, does not conform to the Community Development Plan.  
The Community Development Plan pursues appropriate quantities and locations of commercial land throughout the City. The locational criteria for commercial development, as discussed in the Commercial Land Use Goals, should be used as the basis for locating future commercial areas on the Development Plan Map and Future Land Use Map. The Commercial Land Use Goals are also used to evaluate the appropriateness of all rezoning and final development plan proposals for retail commercial developments. Commercial development areas are designed to occur in "nodes" by avoiding continuous lineal shallow lot depth commercial development along the City's street corridors.

Specific adopted policies in the Community Development Plan regarding commercial land uses are:

**Policy 1.5: Contain Commercial Development -**

Encourage the formation, retention, and expansion of commercial development within the existing commercial boundaries as shown on the Community Development Plan Map.

**Policy 2.1: Use Appropriate Transitional Methods -**

Appropriate transitional methods should be considered at all locations where the development or expansion of commercial land use abuts residential property (either built or zoned). The city strives to meet the following objectives when compatible transition is necessary:

- a) Site Orientation:
  - 1) Site design should be oriented toward thoroughfare or commercial streets.
  - 2) Site access should be off of thoroughfare or commercial streets.
  - 3) Where appropriate, streets may be used as boundaries between commercial and residential land uses.

**Policy 2.3: Allow the Option of Low-Intensity Office as Transitional Use -**

Allow low-intensity office development as an alternative transitional land use into low-density residential neighborhoods with these conditions:

- a) Such development must be compatible in architectural design, height, bulk, and building materials to the adjacent low-density residential developments.
- b) Such development must demonstrate compatible site design by the use of extensive screening, building and parking orientation, and preservation of natural site amenities.
- c) Traffic generated by such development must be directed away from residential areas and on to commercial streets.
- d) Such development is limited to areas shown as Office on the Community Development Plan Map.

**Policy 3.1: Follow Locational Criteria for All Commercial Development -**

The locational criteria for all commercial development are:

- a) Limit commercial development to the areas shown as Commercial on the Community Development Plan Map.
- b) Discourage the formation or expansion of strip commercial development by focusing new growth in a more clustered pattern.
- c) Promote the assembling of small tracts to form larger, more cohesive parcels to enable well-planned and orderly development to occur.
- d) Encourage commercial development to form as part of existing or new shopping centers as opposed to isolated parcels along commercial strips.
- e) Limit the principal access of commercial development to thoroughfare, reverse frontage, or commercial streets.
- f) Encourage commercial development to locate on sites having minimal slope to avoid substantial grading and disruption of natural drainage and vegetation.
- g) Promote the retention of stands of trees, natural vegetation, and environmentally sensitive areas whenever possible to act as buffers between developments and as site amenities within developments.

**Policy 4.1: Avoid Exceeding Street Capacity -**

Discourage the expansion of existing or the inclusion of new commercial development in areas where, even with street and traffic signal improvements, the additional traffic generated by such development would exceed the handling capacity of the street system.

Rezoning the property to RP-3, Planned Garden Apartment District, could be complementary with the intent and policies of the plan. The general goal of the plan for medium density residential land uses is to help form residential neighborhoods that are stable, safe and aesthetically pleasing. Specific policies for medium and high-density land uses include:

**Policy 1.1: Ensure Quality Development**

Encourage emphasis on open space, access to light and air, and the provision of amenities generally associated with and available to low-density residential development in all medium- and higher-density residential developments.

**Policy 1.2: Preserve and Protect the Environment**

Encourage the preservation and protection of trees, natural vegetation, wetlands, and environmentally sensitive areas in medium- and higher-density residential developments to serve as site amenities.

**Policy 1.3: Provide Open Space**

Encourage the provision of usable open space on site by clustering buildings to minimize the creation of narrow strips of unusable open space in front of and between buildings.

**Policy 1.4: Consider Appropriate Density**

The number of dwelling units per acre in any residential category should be viewed as representing a density range rather than a maximum allowable density. The exact density of a specific tract is to be determined at the time of rezoning based on the following:

- a) Only projects with exceptional design and locational criteria will warrant density exceeding the midpoint of the density range.
- b) Natural constraints, public facilities, streets and traffic patterns, neighborhood character, community need and surrounding zoning and land use patterns are to be taken into consideration.

**Policy 1.5: Provide for Variety in Housing Types**

Encourage the use of a variety of housing types, including townhomes, patio homes, duplexes, zero lot line homes, cluster housing, garden apartments and retirement housing.

**Policy 2.1: Consider Land Use Relationships**

The relationship of land uses should reflect consideration of existing development, environmental conditions, and service and access needs. No higher-density development (more than 15 units per net acre) shall have a property line common with properties zoned for single-family and designated as Low-Density Residential on the Future Development Plan unless such low-density property is used for a nonresidential land use such as a church, school or park.

**Policy 2.2: Consider Access**

Higher-density residential developments shall have frontage and main access directly on major thoroughfares.

**Policy 2.3: Protect Areas Planned for Medium- and Higher-Density Residential Developments**

Avoid reducing medium- and higher-density residential areas as shown on the Future Development Plan Map by allowing encroachment of nonresidential land uses which are not customarily allowed in residential districts.

**Policy 2.4: Reserve Suitable Sites**

Reserve suitable land areas of adequate size to accommodate medium- and higher-density residential development near or adjacent to employment centers.

**Policy 2.7: Adhere to Future Development Plan**

A feasibility study for developments increasing the amount of medium- and higher-density residential areas beyond what is shown on the Community Development Plan Map may be required to assist in the evaluation of a proposed project. The feasibility study will include:

- a) Explanation of why the area is not adequately served by the medium- and higher-density residential development shown on the Community Development Plan Map.
- b) An analysis of the impact of traffic generated by the development on adjacent streets.

**Policy 3.1: Use Appropriate Transitional Methods**

Appropriate transitional methods should be considered at all locations where the development or expansion of either more or less intensive land uses about medium- and higher-density residential property (either built or zoned). In general, transitions between different types of intensities of land use should be made gradually, particularly where natural or man-made buffers are not available. Compatible transition from nonresidential or higher-density residential uses to lower density residential uses should consider:

- a) Site Orientation:
  - 1) Site design should be oriented so that less compatible uses such as recreational facilities are located in the interior of the development and not adjacent or in close proximity to low-density residential neighborhoods.
  - 2) Site access should be off of collector or thoroughfare streets.
  - 3) Where appropriate, streets may be used as boundaries between different intensities of land uses.
- b) Building Relationships:
  - 1) A back-to-back relationship is preferable between different intensities of residential land uses.
  - 2) Medium-density residential uses should not have lesser setbacks than abutting low-density residential uses.
  - 3) The height and bulk of a medium-density residential buildings and accessory structures (clubhouses, satellite dishes, etc.) should be oriented away from low-density residential neighborhoods to avoid creating a negative visual effect.
  - 4) Where medium-density residential development adjoins or faces a low-density residential area, the medium-density residential development should incorporate low-rise structures of a lower-density character for those areas closest to the low-density development.
- c) Land Features:
  - 1) Promote the retention of stands of trees, natural vegetation, wetlands, and environmentally sensitive areas whenever possible to separate medium- or higher-density residential development from other more or less intensive land uses.
  - 2) Where possible, use existing differences in topography to naturally separate medium- and higher-density developments and other more or less intensive land uses.
- d) Screening and Landscaping:
  - 1) Encourage the creative and extensive use of landscaping and berming techniques for effective buffering between differing intensities of land uses and to increase neighborhood privacy and security.

- 2) Avoid the use of fences as a sole means of providing screening and buffering.
  - 3) Promote the use of existing vegetation such as stands of trees and hedgerows as natural buffers.
  - 4) Encourage the use of high quality materials in the construction of fencing and landscaping to decrease long-term maintenance costs and to make it less likely that neglected, unsightly areas will occur.
- e) Lighting:
- 1) Any lighting used to illuminate parking areas, signs or other structures shall be arranged so as to deflect light away from any adjoining property or from public streets through fixture type, height, and location.
  - 2) Exterior lighting of buildings shall be limited to low level incandescent spotlights, floodlights, and similar illuminating devices hooded in such a manner that the direct beam of any such light source will not glare upon adjacent property or public streets.

**Policy 3.4: Allow the Option of Medium-Density Residential as a Transitional Use**

Allow the use of medium-density residential as a transitional land use between low-density residential and other more intensive uses.

8. **STAFF ANALYSIS OF THE APPLICATION:** The applicant's original request was to rezone 16.8 acres to CP-2 and 17.8 acres to RP-3. Based on work session discussions between the applicant's representative and Planning Commissioners, a revised development plan has been submitted for consideration with this rezoning application since this request was first considered at the February 27, 2006, meeting.

The revised development plan for the commercial areas indicates ten commercial retail buildings totaling 132,900 square feet of commercial space, an increase from the nine commercial retail buildings totaling 117,000 square feet shown on the original development plan presented at the February 27, 2006, Planning Commission meeting. No new building elevations were provided with the revised development plan for the proposed commercial development areas.

The revised development plan now includes 272 units within twelve buildings, plus a club house facility, for the RP-3, multi-family garden apartment, area. New legal descriptions that reflect the revised commercial and apartment layouts have not been provided to staff, so the proposed residential density cannot be calculated.

The submitted request is to rezone the property to two planned zoning districts, which provide for the review and scrutiny of a development plan showing lot layout and on-site improvements, as well as architectural plans and proposed building elevations, all to be tied to the overall zoning approval process. A sampling of one sided building elevations was submitted with this rezoning request and with the two rezoning requests to the north and south (Z-06-02 and Z-06-04). Specific architectural plans for the two story apartment buildings were submitted for consideration with the original rezoning and development plan request.

Of the three submitted rezoning requests for the McCann property, this request for retail commercial and medium-density development deviates most from the adopted Community Development Plan map and policies. The introduction of commercial retail land use in this immediate area of the community is pure speculation. In staff's opinion, the commercial rezoning request is not the appropriate location in the community that will attract quality commercial businesses and tenants. By zoning land in this immediate area for commercial land uses, the City would establish by approved land use policy the need to develop high intensity land uses on the 100 acre Burgdorfer property located on the south side of 167<sup>th</sup> Street to the southeast of this rezoning request.

While there is a strong community wide desire to plan for and accommodate retail locations in all parts of the city, the critical evaluation of the established policies and criteria for allowing new commercial development areas should be done judiciously, to prevent establishing an open door policy of allowing high intensity retail and commercial uses on the corner properties of every section line road in the City. Not all areas of the community would have the necessary exposure and high volume future traffic counts to ensure that commercial developments would attract a healthy mix of good tenants over time. In staff's opinion and based on anticipated future traffic volumes along both 167<sup>th</sup> Street and Waverly Road, this proposed retail development area will lack the traits that commercial business owners and successful future retail tenants would desire. By allocating and zoning too many commercial areas within the City of Gardner, staff fears that the sustainability of many of the community's commercial areas could be compromised.

Also, the planned road system within the City of Gardner cannot readily accommodate commercial development in all areas. Currently, this site is served by a two lane chip and seal ditch profile road on 167<sup>th</sup> Street and a gravel road on Waverly Road north of 167<sup>th</sup> Street. If this rezoning request is recommended for approval, staff will provide suggested stipulations of approval that would require the developer(s) of this retail and medium density development(s) to improve the frontage of either or both Waverly Road and 167<sup>th</sup> Street to a City street standard that could safely accommodate the proposed land uses.

From staff's perspective, it would be best to keep this subject property in its current agricultural zoning district to allow the community to evaluate and re-evaluate the market needs, sizes, scopes and locations of future commercial retail and apartment areas as part of a long range planning process, rather than to grant a premature speculative rezoning request, especially one that is mostly contrary to the adopted Community Development Plan maps and policies.

9. **STAFF RECOMMENDATION:** Staff recommends that the Planning Commission forward the rezoning application Z-06-03, rezoning 47.64 acres from A (Agricultural District) to CP-2 (Planned Single Family Residential District) and RP-3 (Planned Garden Apartment District), to the City Council with a recommendation for denial.

**3. Z-06-04**

**Conduct a public hearing and consider rezoning property from A (Agricultural District) to RP-1 (Planned Single Family Residential District) and RP-3 (Planned Garden Apartment District) for a 124.2 acre property located approximately ¼ mile**

**north and east of the Waverly Road and 167<sup>th</sup> Street intersection. The application is filed by Jabez Investments, L.L.C.**

1. **APPLICANT:** Jabez Investments, L.L.C., is the applicant; with engineering services provided by Peridian Group, Inc.
2. **REQUESTED ACTION:** The applicant requests rezoning from A (Agricultural District) to RP-1 (Planned Single Family Residential District) and RP-3 (Planned Garden Apartment District).
3. **LOCATION:** The 124 acre property is located about ¼ mile north and east of the 167th Street and Waverly Road intersection.
4. **EXISTING ZONING:** The property is currently zoned A (Agricultural District) upon annexation into the City of Gardner (Ord 2172).
5. **CHARACTER OF THE NEIGHBORHOOD:** The land immediately surrounding the subject property is characterized as the developing northwest fringe of the City of Gardner. Existing uses include Madison Elementary School and a developing single family subdivision to the far south; single family residential uses, a church facility, agricultural and residential uses to the southwest on the west side of Waverly Road; a developing single family subdivision (Megan Valley) to the west; agricultural and two existing residences to the south (proposed for a mixed use development Z-06-02 and Z-06-03); and two agricultural farms that are not incorporated into the City of Gardner to the immediate east (on the north side of 167<sup>th</sup> Street) and to the southeast (on the south side of 167<sup>th</sup> Street).  
The other significant character defining elements in this immediate area are the new overhead electrical power transmission lines running along the north side of 167<sup>th</sup> Street and the east side of Waverly Road, and the developing Gardner electrical substation site on the west side of Waverly Road, west of and adjacent to this subject property.
6. **LAND USE AND ZONING PATTERNS:** The surrounding properties are zoned R-1, Single Family Residential District, to the south, southwest, and west; A, Agricultural District, to the southwest and south; and Johnson County RUR to the immediate east and southeast.
7. **CONFORMANCE TO THE COMMUNITY DEVELOPMENT PLAN:** The Gardner Community Development Plan - 2003 denotes urban residential land uses and low-density residential development uses for this immediate area. The Community Development Plan attempts to expand housing opportunities by targeting various residential densities. Three residential land use categories are depicted on the Development Plan Map. The categories are distinguishable by the density of development allowed in each:

Low-Density: Greater than 1 and less than or equal to 6 units per acre  
Medium-Density: Greater than 6 and less than or equal to 15 units per acre  
High-Density: Greater than 15 units per acre

Rezoning the property to RP-3, Planned Garden Apartment District, and RP-1, Planned Single-Family Residential District, could be complementary with the intent and policies of the plan.

The general goal of the plan for low-density residential land uses is to help form residential neighborhoods that are stable, safe and aesthetically pleasing. Specific policies for low-density land uses include:

**Policy 2.2: Reserve Suitable Sites**

Reserve suitable land areas of adequate size to accommodate a number of subdivisions in order to facilitate well-planned orderly development with better coordination of public services and facilities.

**Policy 2.3: Ensure Adequate Infrastructure Facilities**

Ensure that new housing development occurs in areas, which can be adequately and efficiently served by infrastructure facilities.

**Policy 2.4: Allow Small-Lot and Duplex Subdivisions**

Allow the use of small-lot and duplex subdivisions in low-density residential areas in the following circumstances upon a finding of compatibility with surrounding uses:

- d) As a land use transition between lower-density development and land uses of higher intensities.
- e) Adjacent to heavily traveled streets such highways, or interstates, or adjacent to railroad corridors.
- f) Where flexibility in subdivision design is necessary to preserve natural features, provide for greenway linkages or avoid floodplains.

**Policy 3.2: Encourage Proper Lot Orientation**

Encourage subdivision design in which peripheral lots face inward toward the neighborhood of which they are a part, especially those lots which are adjacent to collectors or arterial thoroughfares. No home shall front on a designated arterial thoroughfare.

**Policy 3.3: Provide for Extra Buffering in Special Circumstances**

Encourage subdivision design which provides extra buffering between homes and adjacent freeways or thoroughfares. Extra buffering can be accomplished by using any of the following methods or a combination thereof:

- e) Berms
- f) Landscape screening
- g) Fences
- h) Extra lot depth

**Policy 4.1: Use Appropriate Transitional Methods**

Appropriate transitional methods should be considered at all locations where the development or expansions of nonresidential and medium- or high-density residential land uses abut low-density residential property (either built or zoned). In general, transitions between different types of intensities of land use should be made gradually, particularly where natural or man-made buffers are not available.

**Policy 4.2: Higher-Density Residential as Transitional Use**

Promote the use of higher density residential development and duplexes as a transitional land use between nonresidential developments and surrounding low-density residential neighborhoods.

8. **STAFF ANALYSIS OF THE APPLICATION:** The applicant originally requested rezoning 82.5 acres to RP-1 and 41.6 acres to RP-3. Based on work session discussions between the applicant's representative and Planning Commissioners, a revised development plan has been submitted for consideration with this rezoning application since this request was first considered at the February 27, 2006, meeting.
- The revised development plan for the northern residential area indicates a total of 561 residential units, which equates to an overall density of about 4.5 units per acre. This request is to rezone the property to a planned zoning district, which provides for the review and scrutiny of a development plan showing lot layout and on-site improvements, as well as architectural plans and proposed building elevations, all to be tied to the overall zoning approval process. Only a sampling of one sided building elevations was submitted with this rezoning request.
- While this particular rezoning request may comply with many of the adopted standards for residential development of the Community Development Plan, staff has outlined several key issues and policies in the evaluation of the rezoning requests for the properties to the south (Z-06-02 and Z-06-03) to initiate Planning Commission discussion and direction on the general acceptability of the overall proposed mixed use development plan for the McCann properties.
9. **STAFF RECOMMENDATION:** If the Planning Commission finds that issues of design and compatibility to adjacent land uses are adequately addressed with this rezoning request, staff recommends that the Planning Commission forward the application to rezone the McCann Property North (Z-06-04), located on the east side of Waverly Road, ¼ mile north and east of the 167th Street and Waverly Road intersection, from A (Agricultural District) to RP-1 (Planned Single Family Residential District) and RP-3 (Planned Garden Apartment District), to the City Council with a recommendation for approval, subject to the following stipulations:
- The development shall be in accordance with Exhibit "A" (Site Plan) and Exhibit "B" (Building Elevations) which are filed in the office of the Planning Commission Secretary at City Hall and which are incorporated by reference as if set out in full herein. In addition, the development shall comply with all regulations and standards of the City of Gardner unless specifically exempted by the Governing Body.
  - The development shall be limited to 561 units.
  - Prior to or concurrent with the application for final development plan approval, stormwater detention plans and calculations shall be submitted for review and approval by Public Works Department staff.
  - The location and geometrics of all driveways, public streets, and parking areas are subject to review and approval by Community Development Department staff.
  - Prior to the issuance of building permits, the Planning Commission shall approve a final development plan for this subject property.

Chairman Koranda invited questions from the commissioners. There were no questions from the commissioners.

Chairman Koranda invited comments from the applicant.

Engineer for the applicant Joel Riggs of Peridian Group, Inc., gave a presentation of the revised development plan proposal.

Chairman Koranda invited comments and questions from the public. There were no comments or questions from the public.

Motion Mertz, second Kilgore, to close the public hearings concurrently at 8:44 p.m.

Motion Carried: 6 to 0 Aye (Schultz: Absent)

Chairman Koranda invited comments from the commissioners.

Commissioner Popp and Director briefly discussed the location of the future City park, which would be located near the intersection of 159<sup>th</sup> Street and Kill Creek Road.

Commissioner Godwin stated that the revised development plan for the northern rezoning request (Z-06-04) was greatly improved from the previous submittal, and he would vote for approval of that request. He explained that more study on a wider regional scale would be needed to determine the viability of the proposed commercial development; therefore, he would not be in favor of the current rezoning request for the central portion of the overall development plan (Z-06-03). Commissioner Godwin stated that he would be in favor of approving the rezoning request for the southern



portion of the development plan (Z-06-02), but for a standard R-1 zoning district for both of the subject properties, based on the lesser change table in the City Code.

Commissioner Burnett asked what the density of the proposed development would be. Mr. Riggs stated that the density was 5.2 per acre.

Commissioner Burnett asked how wide the single family lots in the northeastern area of the development plan would be. Mr. Riggs explained that they ranged from fifty feet wide to seventy feet wide.

Chairman Koranda asked if staff recommended traditional single family homes instead of the proposed row houses in the northwestern area of the northern rezoning request (Z-06-04). Director Sherman explained that, while some row houses in some areas of the development would be appropriate and desirable, he felt that the higher density residential uses were extended too far into the development, instead of being utilized as a buffer between lower and higher densities. He also expressed his concerns about the high overall number of row houses in the proposed development.

Chairman Koranda asked why the applicant was requesting fifty foot wide lots. Mr. Riggs discussed the overall designs for passive open spaces throughout the development to be utilized by the entire community, and the need for the narrower lot widths to compensate for those open spaces and achieve a reasonable density.

Chairman Koranda asked why the applicant wanted to place commercial development in the proposed area. Mr. Riggs discussed his reasons to expect that the 167<sup>th</sup> Street and Waverly Road intersection would eventually become an arterial hub. He added that the general area had little or no designated commercial areas, and the future growth of the City in that general area would require some commercial development.

Chairman Koranda asked how much research had gone into the proposal for the commercial portion of the development plan. Mr. Riggs explained that the marketing teams of his company and the developer worked together to consider many marketing and development factors, such as:

- what types of tenants they would want to draw;
- what types of services tenants would look for;
- traffic patterns; and
- trends in metro area cities.

Chairman Koranda asked Director Sherman why the 159<sup>th</sup> Street and Waverly Road intersection had been designated as commercial by the Community Development Plan. Director Sherman discussed a few of the factors pertinent to that designation, such as:

- the drainage basin of that general area;
- future sanitary sewer availability; and
- its central location in the expected future northwest growth area of the City.

Chairman Koranda and Director Sherman discussed general planning policies regarding commercial locations, sizes, viabilities, etc. They discussed the differences between expanding existing commercial areas and establishing new isolated commercial pockets or strips.

Chairman Koranda agreed with the staff report recommendation for approval of the rezoning request for the southern portion of the development plan (Z-06-02) for an R-1 zoning district.

Commissioner Mertz expressed her disapproval of the rezoning request for the commercial area of the development plan (Z-06-03). She stated that leaving that area zoned agricultural would not preclude future rezoning for commercial use. She added that the Planning Commission needed to thoroughly address appropriate and necessary locations of future commercial development in the northwest area of the City. Commissioner Mertz stated her approval of the proposed row houses and single family homes in the northwestern area of the overall development (Z-06-04), and agreed with Commissioners Godwin and Koranda regarding rezoning the southern portion of the development plan (Z-06-02) to traditional single family residential use.

Commissioner Popp expressed his approval of the proposed development plan for the northern portion of the proposed development (Z-06-04). He stated his preference for small commercial "pockets" instead of larger commercial "strips" within neighborhoods. Commissioner Popp agreed with the commissioners that there should be more intensive planning and evaluation of the northwest area of the City regarding the appropriate needs and locations of commercial developments prior to further consideration of the proposal for commercial development in the central area of the submitted development plan (Z-06-03). He added his approval of the suggested single family residential zoning designations for the southern area of the development plan (Z-06-02).

Mr. Riggs requested the Planning Commission to table consideration of the Z-06-03 rezoning request; approve the rezoning request Z-06-02 for single family residential development, per the lesser change table; and approve the Z-06-04 rezoning request. He added that he would work with City staff to further study the future commercial development needs of the northwest area of the City.

Motion Mertz, second Burnett, to forward the Rezoning Request to rezone the McCann Property South, located on the east side of Waverly Road, ¼ mile south of 167<sup>th</sup> Street, from A, Agricultural District; to RP-1, Planned Single Family Residential District; and RP-3, Planned Garden Apartment District; (Z-06-02) to the City Council with a recommendation for approval to the R-1, Single Family Residential District, for the entire 16.25 acres, based on provisions of Chapter 16-1517, Lesser Change Table, with no stipulations. Motion to Forward Carried: 6 to 0 Aye (Schultz: Absent)

Motion Mertz, second Kilgore, to forward the Rezoning Request to rezone the McCann Property Central, located on the southeast and northeast corners of the Waverly Road and 167<sup>th</sup> Street intersection, from A, Agricultural District; to CP-2, Planned General Business District; and RP-3, Planned Garden Apartment District; (Z-06-03) to the City Council with a recommendation for denial.

Motion to Forward Carried: 5 to 1 Aye (Koranda: Nay; Schultz: Absent)

Motion Mertz, second Kilgore, to forward the Rezoning Request to rezone the McCann Property North, located on the east side of Waverly Road, ¼ mile north and east of the

167<sup>th</sup> Street and Waverly Road intersection, from A, Agricultural District; to RP-1, Planned Single Family Residential District; and RP-3, Planned Garden Apartment District; (Z-06-04) to the City Council with a recommendation for approval, subject to staff recommendations. Motion to Forward Carried: 6 to 0 Aye (Schultz: Absent)

Director Sherman noted that the three rezoning requests would be scheduled on the May 1, 2006, City Council meeting agenda.

Commissioner Mertz stated that the City of Gardner needed to determine more specifically where it wanted commercial development to occur in the developing areas of the City. She added that commercial developments should be on all four corners of major intersections, rather than in smaller pockets, and that the Community Development Plan should clearly guide growth toward such desired development areas and patterns.

Chairman Koranda agreed that the Planning Commission needed to be doing more long-range studies and planning.

## **VI. Adjourn**

Motion Popp, second Burnett, to adjourn the meeting at 9:12 p.m.

Motion to Adjourn Carried: 6 to 0 Aye (Schultz: Absent)

Cindy Weeks, Planning Service Specialist  
Community Development Department

